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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,976	05/24/2001	Evan E. Koslow	369.7217USU	3444

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SHIRLEY S. MA  
KX INDUSTRIES, L.P.  
269 S. LAMBERT ROAD  
ORANGE, CT 06477

EXAMINER

BOYD, JENNIFER A

ART UNIT PAPER NUMBER

1771

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/864 976

Applicant(s)

KOSLOW, EVAN E

Examiner

Jennifer A Boyd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6 - 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 are indefinite because it is unclear what "in liquid communication" means.

Claims 8 and 9 are indefinite because it is unclear what constitutes semi-permeable. What level of permeability does the substrate have? For the sake of examination at this time, the Examiner will assume that a synthetic non-woven material will exhibit a suitable level of semi-permeability.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 - 3, 6 - 12 and 15 - 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Koslow (U.S. 6,015,608).

Koslow is directed to a liquid absorbent pad with anti-gel block laminate (Title).

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Koslow teaches a liquid absorbent pad as seen in Figure 1 comprising an outer layer 10 of a liquid impervious material as required by claim 8, such as a thin plastic film or membrane, having an outer surface and inner surface 12. Mounted on the inner surface 12 of the outer layer 10 are a plurality of laminate segments, such as strips 14 (a-c), separated from one another by spaces 22 creating the Applicant's "channels". Each of the strips includes a bottom layer 16 of tissue, an upper layer 18 of tissue, and an intermediate layer 20 of super-absorbent polymer particles bonded to the bottom and upper tissue layers by thermoplastic binder particles, creating the "bonded mixture". The "bonded mixture" has admixture of super-absorbent polymer particles and much smaller particles of thermoplastic binder (column 1, lines 30 - 35). As to claim 2, the super-absorbent polymer particles in the intermediate layer "channels" absorb the liquid. Mounted on the laminate strips 14 is a liquid acquisition layer 24. The acquisition layer 24 may be of any material currently used for this purpose and known to those skilled in the art such as an air laid medium. The outer layer 10 in combination with the bottom layer 16 of tissue segments are equated to Applicant's "first substrate". As to claim 9, the liquid acquisition layer in combination with the upper layer 18 of tissue are equated to Applicant's "second substrate". As to claims 6 and 7, an optional liquid-permeable skin-contacting spun-bonded medium 26 is provided, equated to Applicant's "liquid permeable acquisition layer" (column 2, lines 29 - 65).

As to claim 10, the composite will absorb liquid when used as a diaper or in feminine hygiene products (column 1, lines 5 - 7), which is placed close to the body, thus adjacent to the liquid source.

As to claims 11 - 12 and 15 - 18, the patent limitations are set forth above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 - 5, 13 - 14 and 19 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koslow (U.S. 6,015,608)

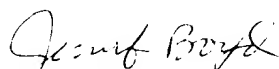
Koslow discloses the claimed invention except for that the bonded mixture has a dry thickness of less than about 2 millimeters. It should be noted that thickness is a result effective variable. For example, if the thickness increased, the composite would become more rigid and heavy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the bonded mixture with a dry thickness of less than about 2 millimeters since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, it would have been obvious to optimize the thickness of the bonded mixture to have a thin, pliable material.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Jennifer Boyd  
March 10, 2003

